IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE C.N.RAMACHANDRAN NAIR

TUESDAY, THE 3RD JULY 2007 / 12TH ASHADHA 1929

WP(C).No. 20332 of 2007(U)

PETITIONER:

C.T.RAJAN,
M/S. CHEMMANRIKKAT PLANTATIONS,
SHORNUR.

BY ADV. SRI.V.V.ASOKAN
SMT.S.AMINA

RESPONDENTS:

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1. THE AGRICULTURAL INCOME TAX OFFICER,
MANNARKKAD.

2. THE DEPUTY TAHSILDAR (REVENUE RECOVERY),
TALUK OFFICE, OTTAPPALAM.

BY ADV. SHRI.C.K.GOVINDAN, GOVERNMENT PLEADER

THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION ON 03/07/2007, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

C.R.

C.N.RAMACHANDRAN NAIR, J.

WP(C) No. 20332 of 2007

Dated, this the 3rd day of July, 2007

J U D G M E N T

The petitioner an assessee is challenging demand of agricultural income tax under the Agricultural Income Tax Act, 1991 in respect of income from rubber for the assessment years 2005-06 and 2006-07 and the recovery proceedings initiated under Exts.P9 and P9(a) on the ground that petitioner is entitled to exemption from payment of agricultural income tax by virtue of Exts.P3(b) and P4 notifications issued by the Government.

2. I heard counsel for the petitioner and Government Pleader. The petitioner has produced Ext.P3 series of notifications and Ext.P4 notification by which exemption is granted by the Government from payment of agricultural income tax for various periods. While under Exts.P3 and P3(a) exemption is granted for all assessees except companies from payment of agricultural income tax in respect of income from all crops for the assessment years 2002-03 and 2003-04, Ext.P3(b) notification which is issued for the assessment years 2004-05 and 2005-06 provides for exemption for assessees other than companies only for income derived from

cultivation of tea and coffee. For the assessment year 2007-08 which is covered by Ext.P4 notification, exemption is granted not only for income derived from cultivation of coffee and tea, but for pepper and cardamom also. The petitioner has not produced any notification pertaining to assessment year 2006-07. According to the petitioner, by virtue of Exts.P3(b) and P4 petitioner is entitled to exemption from payment of agricultural income tax in respect of income derived from cultivation of rubber. In fact, petitioner has through rectification application made before the officer claimed refund of tax paid for the year 2004-05 also. In order to appreciate the contentions raised by the petitioner, it is enough to refer to one notification and therefore Ext.P4 is extracted hereunder.

> "S.R.O. No. 377/2007 :- In exercise of the powers conferred by section 17 of the Kerala Agricultural Income Tax Act, 1991 (15 of 1991), the Government of Kerala, having considered it necessary in the public interest, so to do, hereby make an exemption in respect of Agricultural income tax payable under the said Act by all assessees except companies, on the Agricultural income derived from the cultivation of coffee, tea, pepper and cardamom for the previous year 2006-07 corresponding to the assessment year 2007-08."

It is obvious from the above that exemption is available to all assessees except companies in respect of income derived from the

cultivation of coffee, tea, pepper and cardamom. Obviously Government did not want to grant exemption for the income derived from cultivation of rubber after assessment year 2003-04. According to the petitioner, all assessees except companies are entitled to exemption from payment of tax on income from all crops and so far as companies are concerned, exemption available is on income from cultivation of tea, coffee, pepper and cardamom. I am unable to accept this contention because none of the notifications provide for exemption from payment of tax by companies in respect of income from any crop. In other words, companies were liable to pay tax on the income from all crops including tea, coffee, cardamom and pepper. Complete exemption was initially granted for limited periods only to assessees other than companies. For the sake of clarity the scheme of exemption available under the notifications is as follows :-

(1) S.R.O. 800/2001 and (2) S.R.O. 09/2002 :- Exemption from payment of agricultural income tax is available for the assessment years 2002-03 and 2003-04 to all assessees other than companies, in respect of income derived from all crops.

(3) S.R.O. 392/2005 :- Exemption from payment of

agricultural income tax is available for the assessment years 2004-05 and 2005-06 to all assessees other than companies, only in respect of income derived from the cultivation of tea and coffee.

(4) S.R.O. 377/2007 :- Exemption from payment of agricultural income tax is available for the assessment year 2007-08 to all assessees other than companies, only in respect of income derived from cultivation of coffee, tea, pepper and cardamom.

3. In view of the above findings, petitioner is not entitled to any exemption from payment of agricultural income tax in respect of the income derived from cultivation of rubber for the assessment years 2004-05 onwards. This writ petition is therefore dismissed.

(C.N.RAMACHANDRAN NAIR, JUDGE.)

jg